

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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GUGGENHEIM CAPITAL, LLC and.	:	
GUGGENHEIM PARTNERS, LLC,	:	Civil Action No.: 10 CV 8830 (PGG)
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
CATARINA PIETRA TOUMEI, A/K/A LADY	:	
CATARINA PIETRA TOUMEI A/K/A CATARINA	:	
FREDERICK; VLADIMIR ZURAVEL A/K/A	:	
VLADIMIR GUGGENHEIM A/K/A VLADIMIR Z.	:	
GUGGENHEIM A/K/A VLADIMIR Z.	:	
GUGGENHEIM BANK; DAVID BIRNBAUM	:	
A/K/A DAVID B. GUGGENHEIM; ELI PICHEL;	:	
THEODOR PARDO; DABIR, INT'L;	:	
AND JOHN DOES 1-10,	:	
	:	
Defendants.	:	
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**DEFENDANT BIRNBAUM AND DEFENDANT DABIR, INT'L**  
**NOTICE OF MOTION TO DISMISS PLAINTIFFS' SECOND AMENDED COMPLAINT**  
**FOR FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED**

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law Supporting this Motion and upon all pleadings and proceedings herein, Defendant Birnbaum and Defendant Dabir will move this Court, at a date and time to be determined by the Court, before the Honorable Paul G. Gardephe, United States District Judge, at the United States Courthouse for the Southern District of New York, 500 Pearl

Street, New York, New York, for an Order dismissing Plaintiffs' Second Amended Complaint in all its particulars as against Defendants Birnbaum and Dabir, and entering such other and further relief as the Court may deem proper.

DATED: February 14, 2011

Respectfully Submitted,

/s/Ben D. Manevitz/

Manevitz Law Firm LLC  
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Attorney for Defendant David Birnbaum

**CERTIFICATE OF SERVICE**

I hereby certify that on February 14, 2011, I served the foregoing Defendant Birnbaum's Notice of Motion to Stay Proceedings Pending Resolution of the Related Criminal Prosecution upon counsel for the Plaintiffs, as well as all other parties in this action, by email (PDF version), by facsimile transmission where possible, as well as on Plaintiffs by first class mail.

/s/Ben D. Manevitz/

Ben D. Manevitz